



2021 Indian Law Seminar: Reconnecting Our Sovereign Nations

In previous years, the tribal leaders, scholars, and practitioners of our Indian law community gathered at the Federal Bar Association's annual Indian Law Conference to share our knowledge, triumphs, and trials in the pursuit to protect the sovereignty of our tribal nations. As we return to congregating safely, our members now have the opportunity revive these important gatherings. In the spirit of perpetuating community, connection, and education in the Indian Law community, the Minnesota and the New Mexico chapters of the Federal Bar Association proudly present the 2021 Indian Law Seminar: Reconnecting Our Sovereign Nations. This seminars will run simultaneously, and attendees will hear from two live panels and two simulcast panels in each state for CLE credit.

2021 Indian Law Seminar Agenda

Welcome Remarks

Minnesota 9:00–9:15 AM CST

New Mexico 8:00–8:15 AM MST

First Session

Live in Minnesota 9:15–10:45 AM CST

Simulcast to New Mexico 8:15–9:45 AM MST

Native Americans and the Criminal Justice System

Over the past 15 years, there has been much attention brought to bear on the high rates of victimization of Native people (especially women and children) within Indian country, often by non-Native perpetrators. This disparity has led to calls for an increase in federal prosecutions in Indian country using existing statutory mechanisms, as well as prompted the adoption of federal statutes that increase federal and tribal jurisdiction to prosecute certain crimes (e.g., Tribal Law & Order Act and 2013 Amendments to the Violence Against Women Act). But there is another disparity that is also impacting the Native community. Native people are vastly overrepresented in federal and state prison populations. In fact, in Minnesota, Native Americans are incarcerated at higher rates than any other race or ethnic group. The panelists will discuss these two competing disparities and provide their views on reforms that might resolve both.

Duration: 90 minutes Elimination of Bias Credit

Moderator: Sarah Wheelock, Legal Counsel for Shakopee Mdewakanton Sioux Community

Panelists: Hon. Jeannice M. Reding, Fourth Judicial District for the Minnesota Judicial Branch

Katherian D. Roe, Federal Defender for the District of Minnesota

William Anders Folk, Acting United States Attorney for the District of Minnesota

****15 Minute Break****



Second Session

Live in Minnesota 11:00 –12:30 AM CST

Simulcast to New Mexico 10:00 am –11:30 AM MST

Yellen v. Confederated Tribes of the Chehalis Reservation

Title V of the Cares Act provided \$8 billion in funding for "tribal governments," which were the "recognized governing body of an Indian Tribe" as defined by the Indian Self-Determination and Education Assistance Act (ISDEAA). The question presented in this case was whether for-profit Alaska Native Corporations qualified as a tribal governments under the CARES Act, and therefore, the ISDEAA. In June 2021, a divided U.S. Supreme Court answered this question in the affirmative, in a strange split with Justice Sotomayor writing the majority opinion (which was joined by Roberts, Kavanaugh, Barrett, Alito, and Breyer), and Justice Gorsuch dissenting (joined by Kagan and Thomas). What are the broader implications of this decision outside of the CARES Act? What, if anything, can we tell about Justice Barrett's positions in future Indian law cases given *Cooley* and *Yellen*?

Duration: 90 minutes General CLE Credit

Moderator: Forrest Tahdooahnippah, Partner at Dorsey & Whitney LLP

Panelists: Bonnie Paskvan, Partner at Dorsey & Whitney LLP

James Nichols, Jacobson Law Group

One-Hour Luncheon

Minnesota 12:30 – 1:30 PM CST

New Mexico 11:30-12:30 PM MST

Third Session

Live in New Mexico 12:30–2:00 PM CST

Simulcast to Minnesota 1:30–3:00 PM MST

United States v. Cooley

In *United States v. Cooley*, the Supreme Court addressed whether a tribal police officer has authority to temporarily question, detain and search (i.e., conduct a *Terry* stop) non-Indians on public rights-of-way within reservation boundaries. This panel will explore the Supreme Court's recent decision, which affirmed tribal jurisdiction by applying the second *Montana* exception, and it will discuss the future implications of the decision for tribal law enforcement specifically, and tribal jurisdiction more generally.

Duration: 90 minutes General CLE Credit

Moderator: Sam Winder, Director of Southwest Indian Law Clinic, University of New Mexico School of Law

Panelists: Tim Purdon, Partner at Robins Kaplan LLP

Paul Spruhan, Assistant Attorney General of the Litigation Unit, Navajo Nation Department of Justice

****15 Minute Break****



Fourth Session

Live in New Mexico 2:15–3:45 PM MST

Simulcast to Minnesota 3:15–4:45 PM CST

***Brackeen v. Haaland* and the Need to Strengthen State ICWA Legislation**

Earlier this year, in its highly fractured *en banc* decision in *Brackeen v. Haaland*, the 5th Circuit overturned sections of the Indian Child Welfare Act as unconstitutionally “commandeering” state resources. This decision and possible consideration of the 10th Amendment challenge in the Supreme Court increased the significance of ICWA legislation at the state level in order to continue protecting tribal interests in state child custody proceedings. This panel will highlight the issues in the *Brackeen* decision necessitating states to strengthen their ICWA legislation. Examples of pending and enacted state ICWA legislation will be explored from states such as Minnesota and New Mexico.

Duration: 90 minutes General CLE Credit

Moderator: Kenneth Bobroff, In-House Attorney for Pueblo of Laguna

Panelists: Rep. Georgene Louis (Acoma Pueblo), New Mexico House of Representatives for the 26th District
Hon. Barbara J. Vigil, Secretary of the New Mexico Children Youth and Families Department
Shannon Smith, Executive Director of the ICWA Law Center

Minnesota Reception

5:00–7:00 PM

Sponsored by the Diversity and Inclusion Committee of the Minnesota Chapter